IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05/03/2004

CORAM

THE HONOURABLE MR. JUSTICE P.D.DINAKARAN

W.P.No.1538 of 2003
and W.P.Nos. 1539 to 1541 of 2003

J. Balaji .....Petitioner in
W.P.No.1538 of 2003

P.V.Venkatesan .....Petitioner in
W.P.No.1539 of 2003

Rajan Samuvel .....Petitioner in
W.P.No.1540 of 2003

M.K.Thomas .....Petitioner in
W.P.No.1541 of 2003
-Vs-

1. The Registrar of Co-operative
Societies, (Housing)
Adayar, Chennai 20.

2. The B & C Mills Employees Co-operative
House Building Society,
rep. by its Special Officer,
Mangalapuram Harijan Co-operative House
Building Society,
No.1, 5th Street,
Mangalapuram, Chetpet,
Chennai 600 031.

3. The Sub-Registrar of Assurances,
Konnur, Sitco Nagar,
Villivakkam,
Chennai 600 049. .....Respondents in
all W.Ps

Writ Petitions, under Article 226 of the Constitution of India,
praying for issuance of a Writ of Certiorarified Mandamus, as stated therein.

For Petitioners :: Mr. Suresh Babu

For Respondents :: Mr. M.S.Palanisamy
Additional Government Pleader

:O R D E R

Learned counsel for the petitioners is not ready. Hence, I am constrained to go through the affidavits and the typed set of papers filed in support of the writ petitions.

2. Admittedly sale deeds were executed in favour of fictitious persons on 05.03.2001 in W.P.No.1538 of 2003 and on 16.07.1997 in W.P. Nos.1539, 1540 and 1541 of 2003. Subsequently, the fictitious persons executed the sale deeds on 03.12.2001, 21.04.2002, 30.03.1998 and 11.0 3.1998 respectively in favour the third parties viz., the petitioners herein. In the enquiry held under Section 81 of the Tamil Nadu Cooperative Societies Act, (in brevity "the Act") by the Deputy Registrar and in the enquiry ordered by the Joint Registrar of the Cooperative Societies, it was found that there were irregularities in the allotment of plots in favour of fictitious persons.

3. By proceedings dated 27.12.2002, based upon the deed of cancellation dated 08.11.2002, the second respondent / Co-operative House Building Society proposed to cancel the allotment in S.No.322, 327 and 3 51-A alleged to have been made by erstwhile President of the second respondent viz., Dawood Sherib in the name of benamies.

4. Aggrieved by the said proceedings of the second respondent, the petitioners preferred these writ petitions for issuance of a Writ of Certiorarified Mandamus, to call for the records of the second respondent dated 27.12.2002 and that of the third respondent dated 08.11.2 002 and to quash the same and also to forbear the respondents from in any manner disturbing the petitioners' peaceful possession, title and enjoyment over the property.

5. During the pendency of the above writ petitions an inspection under Section 82 of the Tamil Nadu Co-operative Societies Act was conducted by the Deputy Registrar of Co-operative Societies and based on the report of the Deputy Registrar dated 18.09.2003, the Special Officer, without appreciating the findings of the Deputy Registrar and Joint Registrar in the earlier enquiries, withdraw the proceedings of the second respondent by cancellation deed dated 17.11.2003 in W.P. Nos.1538 and 1539 of 2003 and 06.01.2004 in W.P.Nos.1540 and 1541 of 200 3.

6. Mr.M.S.Palanisamy, learned Additional Government Pleader appearing for the respondents brought to my notice the orders of this Court dated 10.10.2002 made in W.P.No.35552 of 2002 (THE BACKINGHAM AND CARNATIC MILLS EMPLOYEES CO-OPERATIVE HOUSE CONSTRUCTION SOCIETY LTD., ..VS.. THE INSPECTOR GENERAL OF REGISTRATION) Learned Additional Government Pleader further submits that the order dated 10.10.2002 is self explanatory and that the impugned proceedings dated 27.12.2002 was passed by the second respondent pursuant to the deed of cancellation of the third respondent dated 08.11.2002 as well as in consequence of the orders of this Court dated 10.10.2002.

7. Admittedly, there is no appeal against the order dated 10.10.200 2 made in W.P.No.35552 of 2002 and the same has become final.

8. In that view of the matter, finding no illegality or infirmity in the order of the second respondent dated 27.12.2002, all the writ petitions are dismissed with costs of Rs.10,000/- in each of the writ petitions, however, without prejudice to the rights of the first respondent to take disciplinary action against Mr.R.Dandapany, former Special Officer and to proceed in accordance with law and also to cancel the cancellation deeds dated 17.11.2003 and 06.01.2004.

Index: Yes
Internet: Yes

Dpn/-

To:
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